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RATCLIFFE *v.* COSTELLO et al.

June 10, 1915.

[85 S. E. 469.]

**1. Bills and Notes (§ 327\*)—Negotiable Instruments Act—Holder in Due Course.**—Under Negotiable Instruments Act (Code 1904, § 2841a), § 52, defining a holder in due course, section 57, providing that such holder holds the instrument free from any defect of title of prior parties and free from prior defenses, and may enforce payment of the full amount, and section 56, providing that, to constitute notice of an infirmity in the instrument or in its title, the person to whom it is negotiated must have actual knowledge thereof, one who has purchased a promissory note for value before maturity, without notice of defenses available to the maker, was a holder in due course.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. § 792; Dec. Dig. § 327.\* 2 Va.-W. Va. Enc. Dig. 434; 14 Va.-W. Va. Enc. Dig. 159; 15 Va.-W. Va. Enc. Dig. 127.]

**2. Bills and Notes (§ 363\*)—Holder in Due Course—Notice of Infirmities upon Repurchase.**—That a purchaser of a note before maturity for value in good faith, and without notice of defenses available to the maker thereof upon repurchasing the note was chargeable with knowledge of infirmities therein did not impair his original possession as holder in due course.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 790, 791, 960, 962; Dec. Dig. § 363.\* 2 Va.-W. Va. Enc. Dig. 434; 14 Va.-W. Va. Enc. Dig. 159; 15 Va.-W. Va. Enc. Dig. 127.]

**3. Trial (§ 252\*)—Instructions—Instructions Not Supported by Evidence.**—It is reversible error to give an instruction not supported by evidence.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 505, 596-612; Dec. Dig. § 252.\*]

Error to Circuit Court, Loudoun County.

Action by G. M. Ratcliffe against Robert Costello and another. There was a judgment for defendants, and plaintiff brings error. Reversed and remanded.

*R. A. Hutchison*, and *C. A. Sinclair*, both of Manassas, for plaintiff in error.

*John W. Rust*, of Fairfax, for defendant in error.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.